

ISSUE DATE: April 7, 1997

DOCKET NO. P-421/EM-95-1083

ORDER AFTER RECONSIDERATION, ALLOWING COMPANY TO IMPLEMENT
RATES AND CONTINUING INVESTIGATION

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Edward A. Garvey
Joel Jacobs
Marshall Johnson
Mac McCollar
Don Storm

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the US WEST
Communications, Inc. Proposal to Increase the
Rates for Customized Call Management
Services

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PROCEDURAL HISTORY

On January 22, 1997, the Commission issued its ORDER DENYING PETITION AND INITIATING AN INVESTIGATION in the above-captioned docket. In that Order the Commission denied the request of US WEST Communications, Inc. (US WEST or the Company) to raise rates for Customized Call Management Services (CCMS). The Commission also initiated an investigation, pursuant to Minn. Stat. § 237.081, to resolve issues regarding US WEST's rates for CCMS, Business Call Transfer (one of the services packaged within CCMS), CENTRON I (the residential service package which is analogous to the business-focused CCMS), and Residence Call Transfer (one of the services packaged within CENTRON I). The investigation¹ was intended to address questions raised by the Department of Public Service (the Department) regarding revenue neutrality; rate impact on ratepayers; and rate relationships between packaged and free-standing services, and between the same services offered for Residential and Business customers.

On January 31, 1997, US WEST filed a petition for reconsideration. Although US WEST had previously agreed to the initiation of an investigation, the Company now opposed the idea. According to US WEST, it had supplied sufficient business reasons to increase its CCMS rates; further investigation is therefore unnecessary. The investigation certainly should not extend to residential rates outside the scope of the Company's petition. US WEST also urged the Commission to allow it to implement its rate increase at this time. US WEST stated that ten months is the longest period of time contemplated under Minn. Stat. § 237.60, subd. 2(b) for a final decision regarding a proposed rate increase. In this case, more than ten months have elapsed since the submission of the Company's petition.

¹ Assigned to Docket No. P-421/CI-97-498.

On February 10, 1997, the Department filed comments. The Department now urged the Commission to allow US WEST to implement its requested rate increase for CCMS, while continuing the investigation begun in the January 22, 1997 Order. At the March 18, 1997 Commission meeting, the Department stated that the Commission need not reach the legal issues of statutory time frames and possible waivers under Minn. Stat. § 237.60, subd. 2(b) which have been raised by US WEST in this proceeding. While these issues may be ripe for Commission resolution in a future proceeding, they are peripheral to the Department's main concern in this instance: the need for an investigation of US WEST's anomalous pricing strategies.

On March 18, 1997, the matter came before the Commission for consideration.

FINDINGS AND CONCLUSIONS

From the beginning, the unusual circumstances surrounding this filing have set it on a unique procedural path.

US WEST's statement in its initial petition that it "does not intend to implement the changes in CCMS until the Commission has approved the proposal" was reasonably construed by the Commission and the Department as a waiver of the automatic approval process under Minn. Stat. § 237.60, subd. 2(b). This reasonable assumption caused the agencies to choose a line of action different from their usual course under the statute: the Department did not attempt to adhere to the 30 day time limit to lodge its objections to the filing and the Commission did not attempt to make a determination on the public interest of the filing or to declare the rate increase interim in nature within 60 days.

The petition was next affected by the sweeping changes following the passage of the federal Telecommunications Act and Minnesota telecommunications legislation. Faced with the need to address multiple certification, arbitration, and related telecommunications filings, the regulatory agencies did not process this petition as quickly as they normally would.²

Probably surprised to find the petition unresolved, the Company in March, 1996, filed a statement that "the statute still requires a decision by the Commission within the time frames set by the statute." As the Commission discussed in the January 22 Order, this late-filed statement could not cure the Company's previous waiver of the 30 day and 60 day approval deadlines.

Finally, the Commission's decision in January, 1997 rejected the proposed rate increase and

² The Commission was not, however, bound by, and therefore did not exceed, the ten month deadline for action under Minn. Stat. § 237.60, subd. 2(b), because that time limit only applies to rates which have been declared interim and subject to refund, and sent to contested case hearing.

initiated an investigation of the proposed business rate and its related component, and of the analogous residential rates.

Upon reconsideration, the Commission agrees with the Company that the rate increase proposal should be implemented at this time, pending the ongoing investigation. US WEST could not have contemplated the length of time the filing would remain pending when the Company waived the automatic approval process under Minn. Stat. § 237.60, subd. 2(b). Neither could the Company have predicted the scope of the investigation that would eventually focus on the filing which was allowed to exceed the statutory approval timelines. Had US WEST been able to predict the course of the filing, it is reasonable to assume that the Company would have acted in a different fashion. Although the regulatory agencies acted fairly and conscientiously throughout, the unique chain of events may have left US WEST disadvantaged. The Commission finds that the Company has made a sufficient showing to justify the rate increase; fairness therefore requires allowing US WEST to implement the increase proposal at this time.

As the Department noted, through all the events in this proceeding, one element remains clear: the need to investigate the pricing anomaly indicated in the filing. The Commission will, therefore, continue the investigation regarding the rates for US WEST's CCMS service and the rates for Business Call Transfer services which are a part of the CCMS package. The investigation should enable the Commission to determine if a cure of the pricing anomaly is necessary, and if so, how the cure should be effected.

The Commission will not extend the investigation to the analogous residential services--CENTRON I and Residential Call Transfer--at this time. As the Commission has noted, the extension of this proceeding to include residential services was never reasonably contemplated by US WEST during its quest for a price increase. The Commission will not widen the investigation to include residential services at this time. If the Department continues to feel that pricing for CENTRON I and Residential Call Transfer should be investigated, the Department is free to initiate a complaint proceeding under Minn. Stat. § 237.081.

ORDER

1. The Commission reconsiders its January 22, 1997 Order to allow US WEST to implement its proposed rate increase for Customized Call Management Services.
2. The Commission continues its investigation begun in the January 22 Order, confined to the issues of rates for CCMS and Business Call Transfer.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

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